**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**WRIT PETITION No.21900 of 2006**

**Date: .11.2007**

Between:

A.Bachanna Goud
And others

... Petitioners

AND

The Government of A.P.,
Rep by Revenue Divisional officer and
Land Acquisition Officer, Mahboobnagar,
and others.

... Respondents

Counsel for the petitioners : Sri Venkataramana Rao

Counsel for respondent No.1: G.P., for Land Acquisition
Counsel for respondents 2 and 3: Sri P.Vishnuwardan Reddy

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**WRIT PETITION No.21900 of 2006**

**ORDER**:-

This writ petition is filed for a writ of mandamus to declare the inaction of respondent No.1 in referring the dispute under Section 30 of the Land Acquisition Act 1894 (for short "the Act") to the competent civil court as illegal and arbitrary and for appropriate consequential directions.

An extent of Ac.18.14 gts., in survey No.435 of Polepally village, Jadcherla Mandal, Mahboobnagar district is a part of larger extent of land of Ac.362.20 gts., acquired for Andhra Pradesh Industrial Infrastructure Corporation Limited for formation of a growth centre to develop industries. A notification under Section 4(1) of the Act was published on 18.1.2003. During the award enquiry the petitioners claiming to be the protected tenants in respect of Ac.18.14 gts., of land situated in survey No.435 filed their claim applications before the Land Acquisition Officer. The Land Acquisition Officer passed an award on 3.2.2005 under which compensation was apportioned between the petitioners and respondents 2 and 3, who are the pattedars @ 60% and 40% respectively. As respondents 2 and 3 refused to accept the said award, respondent No.1, the Land Acquisition Officer decided to refer the dispute to the competent civil Court under Section 30 of the Act. The petitioners filed the present writ petition feeling

aggrieved by the failure of the Land Acquisition Officer in taking follow up action to refer the dispute to civil court in pursuance of his award.

This Court issued notices at the admission stage to the respondents. On receipt of notice, Sri S.Raghunath, Revenue Divisional Officer, Mahboobnagar filed a counter affidavit. In para-3 it is stated that since the petitioners filed a Xerox copy of certificate issued by the Mandal Revenue Officer, Jadcherla showing their father as protected tenant over the land in survey No.435, the matter was referred to the civil court under Section 30 of the Act, but the same was returned by the civil Court raising certain objections and that the objections have been rectified. In paragraph-4 it is stated that meanwhile respondents 2 and 3 filed a petition before him and the District Collector stating that there are no protected tenants over the land and that their father/husband purchased the subject land 40 years ago and they were in possession and enjoyment of the same. It was further stated that respondents 2 and 3 pleaded that as the dispute was between the pattadar and the tenant, the civil court had no jurisdiction to try the case; that the Collector (LR) Mahboobnagar called for the original revenue records, verified the same and came to the conclusion that as per the records neither the writ petitioners nor their ancestor were the protected tenants and that the same was informed by the Joint Collector through a fax message dated 16.7.2005. When the Land Acquisition Officer responded to the said fax message by saying that Xerox copy of the certificate produced by the petitioner showed their father as the protected tenant, the District Collector, Mahboobnagar formed a committee consisting of the District Revenue Officer, Revenue Divisional

Officer, Executive Director of S.C.Corporation and Mandal Revenue Officer, Jadcherla for verification of record and submission of report; that the committee verified the records on 27.3.2006 such as tenancy register, duplicate tenancy register, pahani for the year 1951 and Khasra Pahanis for the year 1954-55 and noticed that as per the records the ancestor of the petitioners was not the protected tenant over the said land in question. It is further averred that the committee came to the conclusion that Mandal Revenue Officer, Jadcherla prepared a duplicate tenancy register in which the father of the petitioner was shown as protected tenant and basing on the said tenancy register he issued a certificate to the writ petitioners and that the entries in the above register are not passed by the Mandal Revenue Officer who prepared it. In view of the committee's report, the Land Acquisition Officer wrote to the District Collector to clarify whether the compensation of the land in question has to be paid to respondents 2 and 3 and that the clarification was awaited.

Respondent No.2 filed a counter affidavit on his behalf and also on behalf of respondent No.3 wherein they denied the petitioners' claim for compensation on the ground that their ancestor was never a protected tenant and that in view of the finding of the committee against them, there was no need for reference of the dispute to the civil court.

Heard Sri Venkataramana Rao, learned counsel for the petitioners, learned Government Pleader for Land Acquisition and Sri P.Vishnuwardhan Reddy, learned counsel for respondents 2 and 3.

Section 30 of the Act envisages that when the amount of

compensation has been settled under Section 11 of the Act, if any dispute arises as to the apportionment of the same or any part of thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the court. Under Section 31(2) of the Act if there is any dispute as to the title to receive the compensation, the Collector shall deposit the amount of the compensation in the court to which a reference under Section 18 would be made. Section 3(c) of the Act defines Collector as Collector of a District and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under the Act.

It is not in dispute that the Revenue Divisional Officer was entrusted by the State Government with the power of the Collector to acquire the land and pass award. Thus the power of the Collector was delegated to him. With the making of the award wherein the Revenue Divisional Officer, Mahboobnagar apportioned the compensation between the protected tenants and the landlord and referred the dispute to the civil Court. The District Collector has no jurisdiction to entertain representations and constitute a committee in order to make fresh enquiry into the respective claims of the parties. Indeed even the Revenue Divisional Officer, Mahboobnagar having signed the award is not empowered to review the same as no such power is vested in him under the provisions of the Act. Under Section 12 of the Act except to the extent provided under the Act, the award shall be final and conclusive evidence as between the Collector and the persons interested. Under Section 13-A of the Act the Collector (which expression includes delegate) before the expiry of six months from the date of the award or before making a reference to

the civil Court under Section 18 of the Act is empowered to correct any clerical or arithmetical mistakes contained in the award.

Therefore, from the scheme of the Act when once an award is made, it cannot be reviewed either by the Revenue Divisional Officer who is the delegate and the District Collector whose powers to acquire the land were delegated to the Revenue Divisional Officer by the State Government. The only course open to respondents 2 and 3 is to contest the proceedings referred to the civil court under Section 30 of the Act and establish that the tenancy certificate produced by the petitioners is not genuine and that neither the petitioners or their ancestor were never the protected tenants.

The contention of the learned counsel for respondents 2 and 3 that the civil court has no jurisdiction to decide the dispute between the landlords and tenant is without any merit. Section 30 of the Act is attracted wherever a dispute arises as to the apportionment of the compensation or as to the persons to whom the same or any part thereof is payable. Therefore, irrespective of the dispute falling within the scope of any statutory enactments, the same is referable to civil Court which alone has jurisdiction to decide as to who is entitled to receive the compensation. In order to decide such an issue, the civil Court has to necessarily go into the question whether the protected tenancy certificate produced by the petitioners was genuine or not. The civil Court is therefore, competent to decide the said issue.

In the premise as aforesaid, the writ petition is allowed and the Revenue Divisional Officer and the Land Acquisition Officer,

Mahboobnagar is directed to remove all the defects to enable the civil Court to adjudicate the dispute referred under the award on merit. He shall complete this exercise within a period of four weeks.

_____

**C.V.NAGARJUNA REDDY,J**

Date: .11.2007

mdaa